

ENTERED

March 28, 2025

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MICHAEL E. NERO,

Plaintiff,

v.

LELAND C. DUDEK,¹
*Acting Commissioner of the Social Security
Administration,*

Defendant.

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CIVIL ACTION NO. H-24-1156

**ORDER ADOPTING MEMORANDUM
AND RECOMMENDATION**

This court has reviewed the Memorandum and Recommendation of United States Magistrate Judge Richard W. Bennett on the Commissioner's Unopposed Motion to Remand, (Docket Entry No. 17), and made a de novo determination. *See* FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam). Judge Bennett recommended granting the Commissioner's motion and remanding the case to the Commissioner for further administrative proceedings. Judge Bennett also recommended that the Commissioner's Cross Motion for Summary Judgment, (Docket Entry No. 13), and the plaintiff's Motion for Summary Judgment, (Docket Entry No. 15), be denied as moot. No objections to Judge Bennett's ruling have been filed.

Based on the pleadings, the record, and the applicable law, the court adopts the Memorandum and Recommendation as this court's Memorandum and Order. This matter is

¹ Leland C. Dudek became the Acting Commissioner of Social Security in February 2025. Dudek is "automatically substituted" as the defendant in this suit. FED. R. CIV. P. 25(d); *see also* 42 U.S.C. § 405(g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.").

remanded under sentence four of 42 U.S.C. § 405(g) for further administrative proceedings. An order of remand to the Commissioner is separately entered.

SIGNED on March 28, 2025, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal". The signature is fluid and cursive, with a large, stylized "L" and "R".

Lee H. Rosenthal
Senior United States District Judge